

**Amendments to the Claims:**

This listing of claims will replace all prior versions, and listings, of claims in the application:

**Listing of Claims:**

1. (currently amended) A method for optimizing traffic load in a communication network comprising a plurality of network elements which are functionally, essentially independent, wherein presence and availability of a user of a service are taken as a basis for granting a release for a data transmission, wherein the presence and availability of the user of the service are checked using a presence server, and a positive check result is taken as a basis for an evaluation and decision unit to release a data transmission to the user of the service.

2. (canceled).

3. (previously presented) The method as claimed in claim 1, wherein the presence and availability of the user of the service are checked using control data in a telecommunication network.

4. (previously presented) The method as claimed in claim 1, wherein the presence and availability of the user of the service are checked using at least one service use profile including profile data.

5. (canceled).

6. (previously presented) The method as claimed in claim 1, wherein at least one network element has the traffic load detected for it, timer signals, external trigger signals or a result of a comparison with preprogrammed threshold values is/are taken as a basis for creating load messages for signaling the traffic load and sending them to a network operation control unit,

the load messages are received and evaluated by the network operation control unit, and control signals to selected content databases or platforms relating to the transmission of predetermined contents or other information to users' telecommunication and data terminals connected to selected network elements are generated in relation to the evaluated load messages.

7. (previously presented) The method as claimed in claim 6, wherein the network operation control unit transmits trigger signals to the network elements for generating and/or transmitting load messages.

8. (previously presented) The method as claimed in claim 6, wherein the network elements have the threshold values relating to the traffic load programmed for them which are used for a comparison which triggers the transmission of load messages.

9. (previously presented) The method as claimed in claim 6, wherein control signals are output to selected content databases or platforms in relation to at least one service use profile for the users which includes prestored profile data.

10. (currently amended) An apparatus for optimizing traffic load in a communication network, comprising:

a plurality of network elements which are functionally, essentially independent; and

a first unit which is configured such that it checks whether a user of a service is present and available and forwards the check result to a second unit, the second unit configured such that it evaluates the check result and, if the check result is positive, makes a decision to release a data transmission to a present and available user of the service, wherein

the presence and availability of the user of the service are checked using a presence server,  
and

a positive check result is taken as a basis for an evaluation and decision unit to release a  
data transmission to the user of the service.

11. (previously presented) The apparatus as claimed in claim 10, wherein the second unit is configured as an evaluation and decision unit.

12. (previously presented) The apparatus as claimed in claim 10, wherein the first unit receives data for checking other network units.

13. (previously presented) The apparatus as claimed in claim 10, wherein the first unit is configured as a presence server.

14. (previously presented) The apparatus as claimed in claim 10, further comprising:  
a network operation control unit including, for receiving load messages from at least some of the network elements; and

a load data reception unit which is connected to an evaluation and decision unit for evaluating the load messages and for outputting control signals in relation to message content to selected content databases or platforms.

15. (previously presented) The apparatus as claimed in claim 10, wherein content databases and/or platforms are designed to respond to control signals for transmitting predetermined contents or other information to users' telecommunication or data terminals connected to selected network elements.

16. (previously presented) The apparatus as claimed in claim 14, further comprising traffic load monitoring units or load message transmission units associated with the network elements including timers for actuating detection of the traffic load and/or transmission of the load message to the network operation control unit at predetermined times or at predetermined time intervals.

17. (previously presented) The apparatus as claimed in claim 14, wherein at least some of the network elements are provided with traffic load monitoring units and load message transmission units, connected to the latter, for transmitting load messages which signal the respective network element's traffic load to the network operation control unit.

18. (previously presented) The apparatus as claimed in claim 17, wherein the traffic load monitoring units have discriminator units which are configured such that they continuously compare a detected traffic load with threshold values and actuate transmission of the load message if the threshold values are exceeded and/or undershot.

19. (previously presented) The apparatus as claimed in claim 16, wherein for requesting load messages from the traffic load monitoring units, an evaluation and decision unit in the network operation control unit includes a timer and a trigger pulse transmitter for generating and transmitting trigger pulses.